

State of California



Fair Political Practices Commission

P.O. BOX 807 • SACRAMENTO, 95804 • • • 1100 K STREET BUILDING, SACRAMENTO, 95814

Technical Assistance
(916) 322-5662

• • Administration • •
322-5660

• • Executive/Legal • •
322-5901

• • Enforcement • •
322-6441

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322-6444

January 30, 1984

Shirley L. Grindle
TIN CUP Campaign Reform Committee
19051 Glen Arran
Orange, CA 92669

Re: Advice Letter No. A-84-003

Dear Ms. Grindle:

Thank you for your request for advice on the campaign provisions of the Political Reform Act. Although your letter focused on a particular factual situation, I can only provide you with a general discussion of the Act's provisions because your responsibilities under the Act are not in question. You asked whether a person or entity is making an independent expenditure when it works with a candidate to prepare for, and put on, a fundraiser for the candidate.

Government Code Section 82031^{1/} provides that the term "independent expenditure" means "an expenditure made by any person in connection with a communication which expressly advocates the election or defeat of a clearly identified candidate ... but which is not made to or at the behest of the affected candidate...." Regulation 2 Cal. Adm. Code Section 18225(b) states that the phrase "made at the behest" means "made under the control or at the direction of a candidate...." The courts and the Commission's staff have interpreted the term "independent expenditure" to exclude payments for a fundraiser where there is coordination between the candidate and the person or entity paying for the fundraiser. (See Buckley v. Valeo, 424 U.S. 1, 96 S. Ct. 612, 46 L.Ed. 2d 659 (9176).)

A payment which does not qualify as an independent expenditure because of coordination with the candidate is treated for disclosure purposes as an in-kind contribution to the candidate.

^{1/} Hereinafter all statutory references are to the Government Code unless otherwise indicated.

Snirley L. Grindle
January 30, 1984
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The above discussion interprets only the provisions of the Political Reform Act and does not interpret the City of Orange's TIN CUP Ordinance. If I can be of any further help to you, please contact me at (916) 322-5901.

Very truly yours,

Janis Shank McLean
Janis Shank McLean
Counsel
Legal Division

JSM:pln



TIN CUP
CAMPAIGN REFORM COMMITTEE

1077 West Ball Road - #19051 Glen Arrar
Anaheim, California 92802 Orange, Ca
(714) 772-0144 92669
633-0851

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Time Is Now . . . Clean Up Politics

3 January 1984

State Fair Political Practices Commission
P. O. Box 807
1100 K Street
Sacramento, California 95814

Attention: Ms. Jeanne Pritchard

Dear Ms. Pritchard:

Pursuant to our phone conversation on this date, I am sending this letter which describes a situation occurring in Orange County and on which an interpretation of the Political Reform Act is involved.

A situation is occurring in Orange County which involves clarification of the meaning of "independent expenditure" and whether the subject expenditures qualify as an in-kind campaign contribution. More specifically, the situation is as follows:

VTN Corporation, an architectural/engineering firm, is voluntarily (i.e., supposedly not at the request of the candidate - Supervisor Roger R. Stanton) holding a reception honoring Supervisor Stanton. This reception is to be held on January 15 at the corporate VTN headquarters in Irvine, California. The expenses for this reception are being borne by VTN Corporation and exceed \$500 (per their admission). VTN Corporation is under the impression that because they are voluntarily holding this reception, that is, Supervisor Stanton did not request them to do so, the expenses incurred in this reception event are not required to be reported by Stanton as a campaign contribution. VTN believes their expenses to be independent expenditures in this case.

If VTN Corporation is correct in their position that the expense is not truly a campaign contribution, then VTN Corporation would escape the contribution limitation that would otherwise be applicable to them as described in the local Orange County Campaign Reform Ordinance (i.e. the TIN CUP ordinance).

I am of the opinion that the Political Reform Act definition of "independent expenditure" does not apply to the expenses of the above-described reception. It is clear that the reception had to be coordinated with Supervisor Stanton, that he will more than likely be present at the reception, that his committee ID number is listed on the invitation package signifying his awareness of and concurrence and cooperation with this event, that his office most likely supplied the mailing list for the invitations, and finally that the reception does not meet the FPCC definition of independent expenditure in that the reception is not an expenditure made "in connection with a communication".

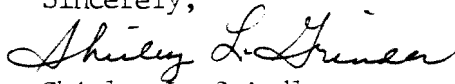
For obvious reasons, it is important to obtain a resolution of this matter as soon as possible in order that whatever appropriate action is required to be taken can be done so by the TIN CUP Campaign Reform Committee. Therefore, could you please clarify the status of the expenses incurred by VTN Corporation in holding this reception? Are these expenses to be reported by Supervisor Stanton as a campaign contribution?

It would be appreciated if your written reply to this question could include any backup information that is readily available to you, such as previous court cases on similar situations, previous actions of the Commission on similar situations, etc.

If you have any questions on this matter, please feel free to contact the undersigned.. Also, I am sure that Mr. Mike Leach, Chief Executive Officer of VTN Corporation (Orange County) will be cooperative in answering any questions regarding the planned reception.

I have enclosed a copy of the invitation, the response card, and the return envelope that were printed and mailed out by VTN.

Sincerely,



Shirley L. Grindle
Chairman, TIN CUP Campaign Reform Committee
encl.

State of California



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January 18, 1984

Mrs. L.G. Statham
1008 L Street, #108
Sacramento, CA 95814

RE: Request for Advice No. A-84-004

Dear Mrs. Statham:

Thank you for your letter of January 5, 1984, which asked whether a candidate's controlled committee must report the subvendors of a travel agent (i.e., airlines, hotels, ground transportation providers, etc.) when the committee purchases a travel package from the agent.

Government Code Section 84303 requires candidates and committees to report certain expenditures made by an agent or independent contractor on behalf of or for the benefit of the candidate or committee. However, when a candidate or committee makes expenditures to a person or company which is engaged primarily in providing travel services for a travel service "package" which is of the type made available by the company to the public generally, the candidate or committee purchasing the travel package is not required to itemize the travel agent's expenditures.

I hope this information is helpful. Please let me know if you have any additional questions.

Sincerely,

Carla J. Wardlow
Political Reform Consultant

CW:bb

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January 5, 1983

FPPC
P.O. Box 807
Sacramento, CA 95804

Attention: Carla Wardlo, Technical Assistance

Dear Carla:

Should a controlled candidates committee report the subvendors when an expenditure is made to a travel company for a travel package?

A travel package might include airfare, hotel, ground transportation, registration, meals, taxes, tips and/or portorage, along with the travel planners profit.

Because of volume a travel planner is sometimes able to obtain airfare and/or hotel rates lower than those available to the public and passes on these rates at or below retail price thus saving the difference as his profit.

A travel planner would be reluctant to divulge the amount he pays to sub-vendors thus divulging his profit. This would preclude a controlled committee from taking advantage of travel packages that are otherwise available.

Your assistance in this matter would be appreciated.

Sincerely,



Mrs. L. G. Statham
1008 10th Street #514
Sacramento, CA 95814

(916) 791-1080